

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EMPLOYBRIDGE, LLC *et al.*,

Plaintiffs,

v.

Civ. No. 16-833 WJ/KK

RIVEN ROCK STAFFING, LLC *et al.*,

Defendants.

ORDER SCHEDULING DEPOSITION

THIS MATTER comes before the Court on the parties' and D. Stephen Sorensen's February 7, 2017 joint request for the Court to informally resolve an outstanding discovery dispute regarding the scheduling of Mr. Sorensen's deposition. The Court, having reviewed Plaintiffs' counsel's February 7, 2017 letter to the Court, which was copied to all counsel, including Mr. Sorensen's counsel, having heard the parties' counsel's arguments at a telephonic status conference on February 10, 2017 (Doc. 96), and being otherwise fully advised, FINDS that Mr. Sorensen should be required to appear for Plaintiffs to depose him on Thursday, March 2, 2017 at 1:00 PM, at Personal Court Reporters, 411 E. Canon Perdido Street, Suite 21, Santa Barbara, California, 93101.¹

This scheduling dispute arises out of the Court's Order on Discovery Motions regarding Subpoenas (Doc. 88), filed January 26, 2017, in which the Court ordered Mr. Sorensen "to appear to be deposed by Plaintiffs for no more than three (3) hours, at a time, date, and location mutually convenient to the parties and Mr. Sorensen, as set forth in an amended subpoena to be issued by Plaintiffs' counsel." (*Id.* at 8.) The Court's evident expectation in issuing this order was that Mr. Sorensen, his counsel, and counsel for the parties to this matter would promptly

¹ Plaintiffs' counsel has represented to the Court, and Mr. Sorensen's counsel has not disputed, that Mr. Sorensen resides in Santa Barbara, California.

cooperate to determine a mutually convenient time, date, and location for Mr. Sorensen's court-ordered deposition.

Plaintiffs' counsel report that they have asked Mr. Sorensen's counsel for deposition dates on about six occasions since January 26, 2017, and that Mr. Sorensen's counsel has requested deposition dates from Mr. Sorensen, but that, as of February 7, 2017, no dates have been provided to Plaintiffs' counsel. Mr. Sorensen's counsel has had the opportunity to dispute this information, including at the telephonic status conference on February 10, 2017, to which he was expressly invited; however, he has not done so. Lacking Mr. Sorensen's cooperation in scheduling his deposition, it now appears that the Court must order him to appear at a time, date, and place certain to be deposed.

IT IS THEREFORE ORDERED as follows:

1. D. Stephen Sorensen is hereby ordered to appear to be deposed by Plaintiffs for no more than three (3) hours, on **Thursday, March 2, 2017 at 1:00 PM, Pacific Standard Time**, at Personal Court Reporters, 411 E. Canon Perdido Street, Suite 21, Santa Barbara, California, 93101, as set forth in an amended subpoena to be issued and served by Plaintiffs' counsel in accordance with Federal Rules of Civil Procedure 30 and 45;

2. The Court will be available by telephone on Thursday, March 2, 2017 from 1:00 PM to 4:00 PM, Pacific Standard Time, to address any disputes that arise at the deposition;

3. Mr. Sorensen and the parties are reminded of the Court's authority to hold in contempt a person who, having been served with a subpoena in compliance with Federal Rule of Civil Procedure 45, fails without adequate excuse to obey the subpoena or an order related to it, Fed. R. Civ. P. 45(g);

4. Mr. Sorensen and the parties are further reminded of the Court's authority to issue appropriate sanctions, including any party's reasonable attorney's fees and costs, on any person who impedes, delays, or frustrates the fair examination of a deponent, pursuant to Federal Rule of Civil Procedure 30, Fed. R. Civ. P. 30(d)(2); and,

5. The fact discovery deadline in this matter is hereby extended from Tuesday, February 28, 2017, to **Thursday, March 2, 2017**, for the purpose of allowing Plaintiffs to depose Mr. Sorensen in accordance with the terms of this Order.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kirtan Khalsa", written over a horizontal line.

KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE